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APPLICATION NO. 09/652,713	FILING DATE 08/31/00	DOAN	FIRST NAMED INVENTOR T	ATTORNEY DOCKET NO. 93-0421-04
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*MW*

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EXAMINER MACARTHUR, S
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ART UNIT 1763	PAPER NUMBER
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DATE MAILED: 01/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

**FILE COPY**  
**Office Action Summary**

Application No.

09/652,713

Applicant(s)

DOAN, TRUNG T.

Examiner

Sylvia R MacArthur

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34-37 and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-37 and 41-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

a. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

b. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 34-37 and 41-43 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 38-40 of copending Application No. 09/652,969. Although the conflicting claims are not identical, they are not patentably distinct from each other because the terms "splash controller" of the present application and "suction applicator" of S.N. 09/652,969 refer to the same component. The specification on page 4 lines 5-11 upholds this assertion.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 34, 36, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Hurtig (USP 5,289,222).

Hurtig discloses drain arrangement for photoresist coating apparatus. In Figure 2, a splash guard (splash controller) 104B is shown around the edge bead removal nozzle 104C and the edge bead of wafer 103.

The splash controller is shown physically unattached from the edge bead and configured to draw chemical toward the splash controller. The splash controller is also configured to physically intercept the chemical.

3. Claims 34, 35 and 41-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwata et al (USP 4,611,553).

Iwata discloses an improved nozzle for removing edge portions 3 and 3' of a coated layer. The suction nozzle has a dual pipe structure (4 and 4') with a cleaning liquid jetting outlet (5 and 5') and a cleaning liquid sucking inlet (6 and 6') at one end thereof. Cleaning liquid supply ports 8 and 8' dispense liquid through the jetting outlets 5 and 5'.

The sucking inlet (splash controller) inherently generates a gas pressure around the edge bead that is lower than an ambient gas pressure. This lowering of pressure provides the suction.

***Pertinent Subject Matter***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cibulsky (USP 5,759,427) discloses a splash guard 50 around spray head 40.


Ohkuma (USP 4,557,785) illustrates a splash cover 8 around nozzle 7.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sylvia R MacArthur whose telephone number is 703-306-5690.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Mills can be reached on 703-308-1633. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3599 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Sylvia R. MacArthur  
January 19, 2001

  
**GREGORY MILLS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1700**